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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,301	08/16/2005	Stephen Mulcahy	78803.03501	3670
<div>34661      7590      09/19/2007</div> <div>CHARLES N. QUINN FOX ROTHSCHILD LLP 2000 MARKET STREET, 10TH FLOOR PHILADELPHIA, PA 19103</div>				
			EXAMINER ELKINS, GARY E	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/509,301

Applicant(s)

MULCAHY ET AL.

Examiner

Gary E. Elkins

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152:

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. Claims 8 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, last line and claim 16, line 5 from the end, "comer" is unclear.

The preamble of claim 16 is unclear with respect to how a blank can be "formed by folding and being glued", i.e. a blank, by definition, is a flat unfolded and unglued sheet of material. Once it is folded and glued, it is no longer a blank.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4-9 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringer in view of either Weaver or Forbes, Jr. Ringer discloses all structure of the claimed blank and container except a rounded surface on the other opposing side flaps. Each of Weaver and Forbes, Jr. teaches that it is known to make automatically collapsible end closures with rounded surfaces or edges (47, 59; rounded edges of flaps 22, 24, respectively). It would have been obvious to make the auto end closures in Ringer with rounded edges as taught by either Weaver or Forbes, Jr. to allow easier sliding engagement/disengagement of the interlock during erection and collapse of the container.

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4. Claims 1, 2, 4-9 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Single and either Weaver or Forbes, Jr. Henry and Ward discloses all structure of the claimed blank/support except formation of the blank/support from corrugated board and a rounded surface on the other opposing side flaps. Single teaches that it is known to make a collapsible container from corrugated board. Each of Weaver and Forbes, Jr. teaches that it is known to make automatically collapsible end closures with rounded surfaces or edges. It would have been obvious to make the blank/container in Henry using corrugated board as taught by Single to acquire the well known advantages of corrugated board, i.e. strength, insulation, puncture resistance, etc. within a container formed as in Henry. Corrugated board is notoriously well known in this art. It would further have been obvious to make the auto end closure in Henry with rounded edges as taught by either Weaver or Forbes, Jr. to allow easier sliding engagement/disengagement of the interlock during erection and collapse of the container.

5. Claims 10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Single and either Weaver or Forbes, Jr. as applied in paragraph 4 above, and further in view of either Rexford or Zimmerman. Modified Henry fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Henry in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

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6. Claims 10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringer in view of either Weaver or Forbes, Jr. as applied in paragraph 3 above, and further in view of either Rexford or Zimmerman. Modified Ringer fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Ringer in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

#### ***Response to Arguments***

7. Applicant's arguments filed 05 July 2007 have been fully considered but they are not persuasive.

The remarks assert that the newly added limitation that blank is for folding and glued construction into a support which cannot be unglued and returned to the unfolded state or the support is formed from a blank by folding and glued assembly which "upon such assembly" cannot be unglued and returned to the unfolded blank state is not met by the prior art of record. In response, the prior art blanks are clearly capable of being glued into a support where the glue does not allow the support to come apart such that the blank could again be formed. Not only is the blank in each of the prior art references to Ringer and Henry capable of being glued, each reference clearly anticipates such an erected construction.

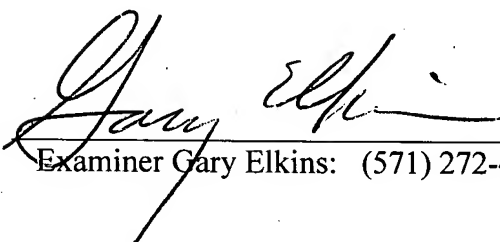
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***Conclusion***

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins. The Examiner can normally be reached Monday through Thursday at the number listed below.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of an application should be directed to the 3700 Technology Center Receptionist. Information regarding the status of an application may also be obtained by accessing the PAIR system. Information about the PAIR system can be obtained at the website <http://pair-direct.uspto.gov> or by contacting the EBC at (866) 217-9197 (toll free).

  
Examiner Gary Elkins: (571) 272-4537

September 17, 2007

Additional Phone Numbers:

Supervisor Nathan Newhouse: (571) 272-4544

Official Fax: (571) 272-8300